

Senator Martin Looney
Senate Majority Leader

On

Proposed Senate Bill 799: An Act Concerning Misrepresentation as a Board Certified
Behavior Analyst

Joint Committee on Public Health

February 23, 2011

Senator Stillman, Representative Ritter and members of the committee, thank you for this opportunity to testify in support of Proposed Senate Bill 799, ***AN ACT CONCERNING MISREPRESENTATION AS A BOARD CERTIFIED BEHAVIOR ANALYST***. With this legislation, we are proposing a new criminal offense explicitly punishing an individual who falsely represents that he or she is a Board Certified Behavior Analyst (BCBA) or Assistant Behavior Analyst (BCaBA) certified by the national Behavior Analyst Certification Board (BACB), and who treats any patient, almost certainly a child with autism.

The penalty we are proposing for this new criminal offense will be up to 5 years in prison and up to a \$500 fine for each offense – with each instance of patient contact or consultation constituting a separate offense. That is the penalty under current Connecticut law for fraudulently posing as a speech, occupational or physical therapist. I believe it is clear that the penalty for posing as a BCBA, and purporting to treat a child who most likely is on the autism spectrum, should be at least as severe.

The impetus for this proposal comes from a tragic situation that occurred throughout Fairfield County over the last several years. Between 2005 and 2008 a woman named Stacy Lore fraudulently misrepresented herself to be a BCBA. She was hired by 5 school districts, including both Norwalk and Weston, to treat autistic children with critically necessary behavioral therapy, also known as applied behavioral analysis (ABA). She billed Norwalk around \$200,000 and Weston around \$300,000. She also was hired by, and worked directly for, families outside the school setting.

She treated children with autism for several years, critical early years that they will never get back. Today we will hear testimony from at least two of the parents of these innocent victims.

When it was finally discovered that Lore was not in fact a BCBA, had received no training in behavioral therapy whatsoever, and actually only had a GED, she was charged in Norwalk with Larceny in the 1st degree, Forgery in the 2nd, and the Class B misdemeanor of “criminal impersonation”, which is essentially the impersonation of

anyone for fraudulent purposes. She was charged in Weston only with Larceny in the 1st degree. In September 2010 she pled guilty, and was given an eight year sentence, with possible suspension after three years.

I believe it is clear that the offense that Stacy Lore committed is far worse than just larceny, forgery or general impersonation. Instead, she posed as a health care provider, and treated autistic children although she was not trained to do so. The stunning magnitude of the potential damage to these children cannot be overstated. Especially for children on the autism spectrum, early intervention and proper care means everything. Sadly, she may have stolen much more than just money with her untrained, fraudulent therapies. And yet, under current law, there is no underlying criminal offense directly punishing these heinous acts.

In contrast, however, there are very significant criminal penalties on the books for fraudulently posing not even as a medical doctor, but as a physical therapist, occupational therapist or speech therapist. Under Connecticut law, the very act of posing as any one of these therapists results in a criminal penalty per offense of up to five years in prison and a \$500 fine – with *each instance of patient contact or consultation constituting a separate offense*. These penalties apply regardless of the amount of any money that may be stolen, or whether or not any documents are forged.

If Connecticut law treated posing as a BCBA as seriously as posing as a speech, occupational or physical therapist, Stacy Lore would have been subject to dozens of years in prison. And, I believe she should have been. Under our proposal, anyone committing similar illegal acts will be.

While Board Certified Behavior Analysts and Assistant Behavior Analysts are not yet licensed in the State of Connecticut, they have long been recognized in several areas of our state law. They enjoy long-standing status as qualified “professional providers” in our “Birth to Three” program. Their services have long been funded by the Department of Children and Families, and are explicitly covered under our state’s insurance mandate laws. Finally, they have been formally recognized under our education statutes, as providers authorized to perform ABA in our schools.

Most importantly, I believe it is clear that BCBAs are the indispensable backbone of care for our ever growing number of children with autism. They, along with psychologists and social workers, provide the behavioral therapies like ABA that can and do make all the difference in the world for children with autism. It has been estimated in the past that a new licensure scheme for behavior analysts would cost more than half a million dollars to implement, and take several years to establish. I believe that, when it is feasible, we will take this step.

Until then, however, we must provide children and their families with the protection they need and deserve from this devastating type of fraud. In my opinion, the best way to deter this fraud is to punish it directly and with appropriate force under our criminal statutes.

